

**REMARKS/ARGUMENTS**

In response to the Office Action mailed March 9, 2005, applicant hereby elects, with traverse, Group I and species d), claims 29-40. Claims 38-40 have been amended so that they are dependent on the elected claims.

Applicant respectfully requests the Patent Office to withdraw the restriction requirement and rejoin Group I and II. Applicant also respectfully requests the Patent Office to withdraw the "patentably distinct species" requirement as set forth on page 3.

According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. *See*, the MPEP at 803.01. In establishing that an "undue burden" would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. To show undue burden resulting from searching difficulties, the Examiner must show that the restricted groups have a separate classification, acquired a separate status in the art, or that searching would require different fields of search (MPEP at § 808.02).

The Office Action indicates that all four species of Group I are classified under Class 623, subclass 2.42. Thus, one of the criteria needed to show an undue burden cannot be met in the present case. Similarly, all four species of Group II are classified under Class 623, subclass 901. Thus all four species can be examined without undue burden. In the absence of a showing how a search of the species under these groups meet the criteria under §808.02, withdrawal of the restriction among these groups is respectfully requested.

The Examiner asserts that Group II and Group I are distinct inventions, and that the product as claimed can be made by another process. Applicant respectfully disagrees. The pyrolytic carbon used for the prosthetic valve fabrication is very brittle. Consequently, the conventional methods (i.e., making housing and leaflet separately, deforming the housing and inserting the leaflets) cannot be used to manufacture the valves in the current design that require extensive deformation for the fabrication. In addition, the manufacturing process involves

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carbon and graphite material that are chemically inert. Therefore, conventional chemical or electrochemical method cannot be used to polish the valve. Accordingly, Applicant respectfully requests rejoining Group I and II.

### CONCLUSION

In view of the above amendments and remarks, the examiner is respectfully requested to allow the case to issuance.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at 612-877-0765.

Respectfully submitted,



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